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Cc: []
Bcc: []
From: CN=Lauren Charney/OU=R2/O=USEPA/C=US
Sent: Tue 11/10/2009 4:33:18 PM
Subject: Ley Creek Access
[Entry and Continued Access.pdf](#)

Luis,

As I mentioned in our call this morning, EPA is unable to agree to or accept the access agreement you provided. Primarily, pursuant to EPA guidance (which I have attached here for your convenience), EPA does not enter into two-party access agreements, but rather accepts one-party access consent forms.

In addition, EPA is not able to provide indemnity nor to agree to provide insurance. Under its access policy, the Agency treats the imposition of such conditions as "denials" of access (specifically, see policy section IV, paragraph A.3).

However, we may be able to provide sufficient assurance on insurance. EPA requires its contractors to maintain insurance and insurance would be required for the proposed Superfund action on the County's property as required by the applicable Federal Acquisition Regulations (FAR) and as specified in the applicable EPA contract. EPA is unable to require its contractors to add third parties (e.g. the County) as additional insureds under their liability insurance policies. EPA would be willing to ask the contractor if it would agree to provide such third party coverage to the County, but the access agreement may not be conditioned on the availability of such third party insurance.

Claims for negligence by Federal employees would be addressed by the Federal Tort Claims Act.

Please let me know if you have any questions or would like to discuss this further.